PRESENTATIONS AND WORKSHOPS

Faculty Workshops at more than twenty schools; scores of lectures and presentations on International Human Rights Law, U.S. Trade Policy and International Economic Law; International Litigation and Procedure; International and Foreign Affairs Law; European Community Law; Law Teaching; Immigration and Refugee Law; Asian-American Issues; and invited presentations at numerous judicial conferences and bar associations

BOARDS

Brookings Institution Board of Directors (2004–); Connecticut Bar Foundation Board of Directors (2004–05); Harvard University Overseer (2001–); Visiting Committee, Harvard Law School (1996–2002); Visiting Committee, Harvard Kennedy School of Government (2007–); Visiting Committee, University of Toronto Faculty of Law (2004); Board of Directors, American Arbitration Association (2007–); Board of Directors, Human Rights in China (2002–5); Member of Council, American Law Institute (2006–); Counselor, American Society of International Law, Washington, DC (honorary post; 2008–); Thomas J. Dodd Research Center National Advisory Board (2001–); Board, National Democratic Institute (2001–); Board of Human Rights First (formerly Lawyers Committee for Human Rights) (2001–); Board of Human Rights in China (2001–); Board of International Campaign for Tibet (2001–); Human Rights Watch (1994–98); Hopkins School (1997–); Interights (1996–98); St. Thomas's Day School (1993–96); Connecticut Civil Liberties Union (1993–7); Initiative for Public Interest Law at Yale (Chair, 1988–90); East Rock Institute (Secretary); YLS Early Learning Center (Treasurer 1987–88)

BARS

New York (1981); District of Columbia (1981); Connecticut (1985); U.S. Supreme Court (1985); U.S. Ct. App., Eleventh Circuit (1995); D.C. Circuit (1981); U.S. Dist. Ct., D.C. (1981); D. Conn. (1985); U.S. Claims Ct. (1983)

REFERENCES:

Hon. Malcolm R. Wilkey (ret.), Santiago, Chile, U.S. Ct. App. DC Cir. (Ret.)

Sen. Russell Feingold Washington, D.C.

Sen. Daniel Patrick Moynihan (ret.) Washington, D.C.

Judge Guido Calabresi U.S. Ct. App., 2d Cir.

Prof. Arthur R. Miller Harvard Law School

Larry L. Simms, Esq. Gibson, Dunn; Crutcher, D.C.

Peter D. Trooboff, Esq. Covington; Burling, D.C.

Mr. SPECTER. I yield the floor, and I suggest the asbence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BEGICH. Without objection, it is so ordered.

ENUMERATED POWERS ACT

Mr. COBURN. Mr. President, I wish to spend a few minutes this evening to outline where we are and one possible solution to help us as a nation. We are on a course to double the debt in 4½ years. We are on a course to triple the debt over the next 10 years. Think of what that means for our children and our grandchildren. That is not President Obama's fault. I am probably one of the few Republicans who will say that. It is Congress's fault, because Presidents don't get to spend money we don't let them spend. We are the ones who offer the spending bills.

How did we get here? How did we get to the point where we are borrowing money that we don't have against our children's future to spend on things we don't need? It is simple. We have forgotten what the Constitution says. We have ignored the Constitution at almost every turn.

Today, myself and 17 other Senators introduced a bill which is called the Enumerated Powers Act. It goes back to article I, section 8 of the Constitution. Here is what it says. It very plainly lists the responsibilities of the Federal Government. When you think we are going to have a $3.6 trillion budget and a $2 trillion deficit this year—and that is real accounting; that is not Washington gimmick accounting—how did we get to where we could do that? How did we get to where we can put our children and grandchildren in such dire straits in their future? We got to it by ignoring the enumerated powers of the Constitution.

If you go to the textbooks and read the history, you will see that Madison wrote that section. If you read what he had to say about what he meant in article I, section 8 of the Constitution, he said, People are going to try to get around this. People are going to try to say it doesn't mean what it means. But, in fact, here is exactly what we mean. Anything that we don't want the Federal Government doing, we are going to specifically reserve for the States. That is where the 10th amendment came from in the Bill of Rights. Because you can't limit what the Federal Government does without saying, Here are the things that should be done, but they should be done under the authority of the people and the States.

When Ben Franklin left the Constitutional Convention in 1787, he was asked by somebody in the crowd: What did the convention produce? He said: It produced a republic. Then he said: If we can keep it.

Well, I can tell my colleagues that ''if'' is a great big word. We have a Medicare Program that over the next 30 years has a $39 trillion unfunded liability. So the factors I have mentioned already don't have anything to do with that. That is $39 trillion on top of $11.5 trillion today and $2 trillion more we are going to add to the debt this year. Then we have Social Security, which is unfunded. We have Medicare Part D that has an $11 trillion unfunded liability. Then we have Medicaid, which is about $17 trillion. So what we have basically done is abandoned what our Founders thought was prudent so we could enhance politicians. We put that big ''if'' up there for our kids and our grandkids.

The task of keeping a republic now falls to this Congress. It doesn't look bright. We passed a stimulus bill, $787 billion. By the time you count the interest rate over the next 10 years, it is $1 trillion. We passed an omnibus bill that increased spending by each branch of the government over 9 percent. We passed an emergency supplemental that had $24 billion in it that we didn't need, but we spent it, which will raise the baseline in future years, which will raise spending even further. The first appropriations bills coming out are a 7-percent or 8 percent increase when inflation has been a minus four-tenths of 1-percent increase.

The whole purpose behind this bill is to say when you write a bill in this Congress and any Congress that follows it, you have to know in that bill where you get the authority in the Constitution to spend this money or to authorize this program. You can still introduce a bill without it, but it creates a point of order that says a Senator can challenge that bill on the basis of what the Constitution says because you have not clearly stated in this new piece of legislation where you get the authority as a Member of the Senate to author it when, in fact, it is outside the authority given to us under the Constitution. The bill then sets up a debate on which the Senate will have to vote. I am not so naive as to believe I will win a whole lot of those, but I know I will win something, because the American people want to hear that debate, and that debate is something they are not hearing today.

They are not hearing our justifications why we can take freedom away and we can make a bigger, more powerful Federal Government that is going to borrow more money from their children to spend on things we don't need, money we don't have. The American people are entitled to hear the reasoning behind why we know so much better than they do, and to hear the reasoning why we can ignore the wisdom of our Founders in terms of our ability to grow the Federal Government.

The Federal Government is far too big and far too removed from people's lives today. That is why we are feeling this rumble out in the country. That is why people are worried about the deficits. That is why people are worried about their children's future, because the debt is going to triple over the next 10 years. We can't even come close. Interest payments next year are going to be close to $500 billion. Think about that. Just the interest on the debt is starting to approach a half a trillion dollars a year—a half a trillion dollars a year. Had we been prudent and not borrowed money, that would be a half a trillion dollars we could either give back to the American people or create tremendous abilities and opportunities in terms of solving some of the problems in front of us today. Health care, for example. The reason why we can't get a health care bill out of the HELP Committee is because nobody is satisfied with the tremendous costs that

CBO has estimated because we are spending tons of money. We don't have the money, so we are now handicapped.

This bill, S. 1319, requires that each act of Congress shall contain a concise explanation of the authority, the specific constitutional authority under which this bill would be enacted. What it does is makes Congress go to the Constitution, and particularly article I, section 8, and say, here is where I get the authority. We won't win many of those arguments, even though many of the bills will be outside of the authority granted us under the Constitution.

Thomas Jefferson thought such an exercise was vitally important—we have ignored his advice—he thought it was important for Congress to undertake in order to study what those who ratified the Constitution had in mind. In a letter in 1823, he said this:

> On every question of construction, let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.

There is no question what the context and the meaning was of our Founders when they wrote out the enumerated powers section. We have prostituted it to our own demise. The words of Benjamin Franklin ring true today: Can we keep it. If we can keep it.

S. 1319 is a little exercise in self-discipline for the Senate that maybe we ought to be explaining to the American people where we think we get the authority to trample on the 10th amendment, to tell them what to do, how to do it, and by the way, we need some money to tell you how to do that. The whole goal of the Enumerated Powers Act is to make us accountable. My whole goal in the Senate has been transparency. We ought to be transparent about how we get or where we get or from where we get the authority to grow the size of this government even further and to make it less effective.

Finally, in a recent speech, retiring Justice David Souter recently commented that the American Republic ''can be lost, it is being lost, it is lost, if it is not understood.'' He went on to cite surveys that show Americans cannot even name the three branches of government. That is why he and retired Justice Sandra Day O'Connor have both undertaken, in their retirement, efforts to restore America's civic education.

I am convinced that if Americans know what is in the Constitution, they will start holding us accountable. Part of our job ought to be to explain how we can be accountable. We have 17 Senators who think this is a good idea. That is a lot for a bill in the Senate. I encourage my colleagues to look at this bill, to become accountable and transparent with our constituencies.

I will end on one final note. When the Presiding Officer was sworn in this year, he took an oath. That oath said he would uphold the Constitution. Not once in his oath did it mention the State of Alaska from where he and the people he represents in the Senate hail, but his oath was sworn to the betterment of this country, not to the betterment of Alaska, as mine is to the betterment of the country, not to the betterment of Oklahoma. For Alaska and Oklahoma can't fare well if the country doesn't fare well. So our Founders knew that when we took this oath to uphold the Constitution, they knew our direction would be national interests and long term. We have fallen away from that. We have become parochial and we have become short term.

This bill says you can still cheat on the Constitution, but now you have to explain to the American people why you are cheating, and there will be a point of order against any bill that doesn't provide an explanation to the people.

That is one of the ways we get our country back because the American people become informed. I guarantee you many will become outraged when they hear some of the statements on why the Senate thinks we have the authority to do some of the things we do.

With that, I yield the floor.

CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 303 of S. Con. Res. 13, the 2010 Budget Resolution, permits the Chairman of the Senate Budget Committee to adjust the allocations of a committee or committees, the aggregates, and other appropriate levels and limits in the resolution for legislation that makes higher education more accessible and affordable, including expanding and strengthening student aid, such as Pell grants. These adjustments to S. Con. Res. 13 are contingent on the legislation not increasing the deficit over either the period of the total of fiscal years 2009 through 2014 or the period of the total of fiscal years 2009 through 2019.

I find that the amendment in the nature of a substitute to H.R. 1777, a bill to make technical corrections to the Higher Education Act of 1965, and for other purposes, fulfills the conditions of the deficit-neutral reserve fund for higher education. Therefore, pursuant to section 303, I am adjusting the aggregates in the 2010 budget resolution, as well as the allocation to the Senate Health, Education, Labor, and Pensions Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 303 DEFICIT-NEUTRAL RESERVE FUND FOR HIGHER EDUCATION

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532.579
FY 2010	1,653.728
FY 2011	1,929.681
FY 2012	2,129.668
FY 2013	2,291.197
FY 2014	2,495.875
(1)(B) Change in Federal Revenues:	
FY 2009	0.008
FY 2010	−12.258
FY 2011	−158.950
FY 2012	−230.725
FY 2013	−224.140
FY 2014	−137.783
(2) New Budget Authority:	
FY 2009	3,675.736
FY 2010	2,892.510
FY 2011	2,844.937
FY 2012	2,848.106
FY 2013	3,012.328
FY 2014	3,188.867
(3) Budget Outlays:	
FY 2009	3,358.952
FY 2010	3,004.544
FY 2011	2,970.592
FY 2012	2,883.053
FY 2013	3,019.952
FY 2014	3,175.217

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 303 DEFICIT-NEUTRAL RESERVE FUND FOR HIGHER EDUCATION

[In millions of dollars]

Current Allocation to Senate Health, Education, Labor, and Pensions Committee:	
FY 2009 Budget Authority	−22,425
FY 2009 Outlays	−19,056
FY 2010 Budget Authority	4,497
FY 2010 Outlays	1,539
FY 2010–2014 Budget Authority	50,374
FY 2010–2014 Outlays	44,507
Adjustments:	
FY 2009 Budget Authority	−187
FY 2009 Outlays	−202
FY 2010 Budget Authority	32
FY 2010 Outlays	36
FY 2010–2014 Budget Authority	188
FY 2010–2014 Outlays	199
Revised Allocation to Senate Health, Education, Labor, and Pensions Committee:	
FY 2009 Budget Authority	−22,612
FY 2009 Outlays	−19,258
FY 2010 Budget Authority	4,529
FY 2010 Outlays	1,575
FY 2010–2014 Budget Authority	50,562
FY 2010–2014 Outlays	44,706

FURTHER CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 401(c)(4) of S. Con. Res. 13, the 2010